IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO.1561 OF 1986

Dena Bank ..Plaintiffs

Vs.

Rashmi Enterprises and Ors. ..Defendants

Mr.K.H.Modi i/b Mr.V.H.Kotadia for the plaintiffs

None for the defendants

CORAM : S.U.KAMDAR, J
DATED : 3RD MARCH, 2006

P.C.:

1. The present suit is filed for the recovery of sum of Rs.1,89,367/- with further interest @ 17.5% pa. Some of the material facts of the present case are as under:

2. The plaintiff is a bank carrying on banking business and at the request of the defendants, plaintiffs gave a bank guarantee in favour of the CIDCO on 13.3.84. For the said counter guarantee, defendants had pledged Fixed Deposit Receipt of Rs.1.0 lac with the said bank. The said counter

guarantee was invoked by the CIDCO by letter dt.17.8.85 and in that view of the matter, the plaintiffs made the payment to the CIDCO for the bank guarantee amount. The said payment was made on 3.1.86. Thereafter the plaintiffs demanded the amount by letter dt.28.1.86. They did not receive any payment and hence the present suit is filed. Defendants did not file any written statement. However, on 10.2.06 inspite of the fact that written statement was not filed for 20 years the same was taken on record on a condition to pay cost quantified at Rs.7500 to the Maharashtra State Legal Services Authority. The learned counsel for the defendants stated that on 24.2.06 that he was not in a position to comply with the said order. In view thereof, the written statement was struck of and the matter was kept for ex-parte decree today. Today also none appears for the defendants. Plaintiffs have tendered the compilation of documents which re taken on record and marked Ex.A collectively.

3. In view of the non denial of any of the statement in the suit, suit is decreed. Plaintiffs

has already adjusted Fixed Deposit Receipt under the particulars of claim and therefore the suit claim after adjustment is Rs.1,89,367/-. Suit is accordingly decreed against the defendants and in favour of the plaintiffs for Rs.1,89,367/- along with further interest @ 12% p.a. being simple interest from the date of the suit till payment and/or realisation. Defendants will also be liable to pay the cost of the suit. Suit disposed of. Refund of court fee as per rules.